



STATE OF NEVADA

# Nevada Tahoe Regional Planning Agency

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## **MINUTES**

April 11, 2007

### **Meeting Place**

North Tahoe Conference Center  
8318 North Lake Boulevard  
Kings Beach, California

### **MEMBERS PRESENT**

Jim Galloway, Chair (arrived 12:10 pm)  
Charles Ruthe, Vice Chair  
Allen Biaggi  
Shelly Aldean  
Coe Swobe  
Mimi Moss (arrived 12:15 pm)

### **MEMBERS ABSENT**

Ross Miller

### **OTHERS PRESENT**

Pamela Wilcox, Executive Officer  
Nhu Nguyen, Nevada Office of Attorney General  
Jim Lawrence, Division of State Lands  
Peter Grove  
Steve Pearsall  
Marianne Pearsall  
Gary Midkiff  
Ron Alling  
Carl Young, League to Save Lake Tahoe  
Carole McNeil

### **1.a. ROLL CALL**

The meeting was called to order by Vice-Chair Charles Ruthe at 12:03 pm. A roll call was taken and a quorum was present. (Chair Jim Galloway arrived at 12:10 pm, Mimi Moss arrived at 12:15 pm, and Ross Miller was absent.)

### **1.b. APPROVAL OF AGENDA**

Mr. Ruthe asked for the approval of the agenda.

**Coe Swobe made a motion to approve the agenda. The motion was seconded by Shelly Aldean and passed by the affirmative vote of all members present (4-0).**

**1.c. APPROVAL OF MINUTES OF THE DECEMBER 20,2006 MEETING**

Mr. Ruthe asked for the approval of the minutes.

**Mr. Swobe made a motion to approve the minutes of the December 20, 2006 meeting. The motion was seconded by Ms. Aldean and passed by the affirmative vote of all members present (4-0).**

**2. REPORT OF THE EXECUTIVE OFFICER ON ACTIVITIES OF THE AGENCY, DEC. 2006 TO APRIL 2007**

Pam Wilcox reported that activities for the agency have been light since the board met last December. The agency has received applications for only two projects and both projects are before them this afternoon. Ms. Wilcox also gave an update on the NTRPA budget and indicated that the current executive budget before the legislature requests an increase for the NTRPA budget from approximately \$800 to \$1700. The intent of the requested increase is to provide enough funds for at least four meetings per year.

Ms. Wilcox concluded by introducing new legal counsel, Nhu Nguyen.

**3. CAL-NEVA RESORT – REQUEST FOR CONVERSION OF HOTEL ROOMS TO HOTEL CONDOMINIUMS ANC CONVERSION OF APPROXIMATELY 7,500 SQUARE FEET OF GAMING AREA TO OTHER PUBLIC USES**

Jim Lawrence gave a summary of the staff report for the project (attached). Mr. Lawrence stated that there are two main components to the project.

First, the project involves the remodel of the hotel tower. The remodel involves consolidating and enlarging existing hotel rooms within the tower and the addition of decks off every unit. The decks will be supported by outside columns. The project also involves converting the newly remodeled units from hotel units to hotel condominium units. Each hotel condominium unit would be owned by individuals who could use the unit for a limited period of time each year. The units would then be leased back to the hotel, which would then rent the units back out as hotel rooms.

Mr. Lawrence stated that he had conversations with staff at Washoe County and the Tahoe Regional Planning Agency, and that both agencies had indicated that they did not consider the change from hotel to hotel condominium as a change in the use and that they still considered the structure as a tourist or hotel unit. Mr. Lawrence indicated that staff believes that the conversion to hotel condominiums is still a private use and is consistent with the compact and NTRPA ordinances.

Mr. Lawrence also indicated that the additions of the decks off the newly remodeled units did not constitute an increase in cubic volume because the decks were not enclosed. Therefore, the project was consistent with the compact and ordinance provisions that prohibit projects resulting in an increase in cubic volume.

Mr. Lawrence discussed the second component of the project which was the remodel of the main floor area. Mr. Lawrence explained that the project resulted in a decrease of approximately 7,500 square feet of floor area. This reduction was primarily due to the remodel of the restaurant, which would result in removal of keno from the restaurant area. The project also involves the conversion of gaming space to a gift shop and a deli. Mr. Lawrence also stated that the area of the structure devoted to public use was not increasing.

Mr. Lawrence stated that staff recommends that the board approve the project and direct that the informational report be forwarded to TRPA.

Peter Grove, representing the Cal-Neva, spoke on behalf of the project. Mr. Grove stated that he has read the staff report and agrees with the report and recommendation. Mr. Grove indicated that he believes the project is designed for all the right things. The project provides needed renovations to the structure and also decreases the amount of floor space dedicated to gaming. Mr. Grove also stated that the project is consistent with other projects approved by the NTRPA Board. Specifically, the project is consistent with the Hyatt project which added decks to existing hotel units, and that the board did not find that those decks added to the cubic volume of the Hyatt structure.

Shelly Aldean asked staff that if the project was approved, how would the new ownership affect future applications? Who would be considered the owner for purposes of filing applications?

Pam Wilcox indicated that those details were not part of the application and that the question was probably better asked of the applicant.

Mr. Grove stated that he did not know the answer and that it would be need to be worked out at a future date.

Prior to proceeding with the public hearing, Mr. Galloway asked staff if the board was only concerned with the components of the project that were within the gaming structure or also with the components off the project that were proposed elsewhere on the property. Mr. Lawrence confirmed that the NTRPA board only had authority related to the structure housing gaming.

Ron Alling testified that he was representing Robert and Carol McNeil who are opposed to the project. Mr. Alling stated that the believed the project was not consistent with NTRPA ordinances and could not be approved. Mr. Alling passed out a handout (attached) that explained why he believed the project could not be approved.

Mr. Alling argued that the remodel and conversion of the hotel units to hotel condominium units constituted a conversion of private use to public use. He stated that the reason that this constitutes a public use is that private use areas are defined as "hotel rooms and hallways to serve hotel room areas, and any parking areas. A hallway serves hotel room areas if more than 50 percent of the areas on each side of the hallway are hotel rooms". All other areas are public use areas. Mr. Alling further explained that the change to hotel condominiums meant that the units would be privately owned and therefore not used by hotel guests. This would therefore result in an increase in area devoted to public use, which is prohibited. In addition, the application submitted did not include a proposed deed restriction, or other limitation, requiring that the owners of the condominium units lease the units to the CalNeva to be used as hotel units. Mr. Alling contended that any time the owners are using their units, they are not guests of the hotel and therefore the units constitute public space.

Mr. Alling also argued that the addition of the balconies to the units enlarged the cubic volume of the structure by over 110,000 cubic feet and therefore the project could not be approved. Mr. Alling added that the balconies would result in more noise which would impact the neighbors.

Shelly Aldean asked if the remodeled units were going to have kitchens. Mr. Grove answered that they would.

Ms. Aldean asked Mr. Alling if the use of the units wouldn't actually decrease because of the change in ownership and therefore there would be less impacts to his clients. Mr. Alling replied that the conversion is still prohibited and should not be approved.

Chair Galloway asked staff to read the definitions of private use and public use as defined in the ordinances, and Mr. Lawrence did so.

Allen Biaggi asked legal counsel for an opinion on whether the conversion of the hotel units to hotel condominiums was consistent with NTRPA ordinances. Ms. Nguyen stated that she had read the staff report for the project and agreed that the staff determinations were reasonable and appeared consistent with applicable NTRPA rules. However, since Mr. Alling did not provide an advance copy of his handout, she has not had the chance to review Mr. Alling's points.

Gary Midkiff, also representing neighbors in opposition to the project, stated that he agreed with the points raised by Mr. Alling. Mr. Midkiff stated that he believed the conversion of hotel units to hotel condominium units was a change of use. He also stated that the neighbors supported renovations and improvements to the property, but that there were negative components to the project. In particular, the addition of the decks will result in an increase in the amount of noise and debris that are already impacting the neighborhood. Mr. Midkiff passed around photos (attached) that show the debris. Mr. Midkiff also stated that the project was recently heard by Washoe County and that it was unfortunate that the only issue they reviewed was the subdivision to condominium units, and that they did not address impacts to the neighborhood.

Mr. Biaggi asked Mr. Grove if the application was time sensitive. Mr. Grove responded that it was because they wanted to proceed with construction this summer.

Carole McNeil stated that she was a neighbor and opposed the project because of negative impacts to her property. She also asked why Mr. Grove thought that the Hyatt project was relevant since the Hyatt project did not involve the conversion of hotel units to hotel condominiums. Mr. Grove replied that he mentioned the Hyatt project only because that project involved the addition of decks and that the board did not find that the decks counted toward the cubic volume of the structure.

Mr. Galloway asked staff how they determined that the proposed decks did not constitute an increase in the cubic volume of the structure. Mr. Lawrence responded that the proposed decks were not enclosed and therefore were not determined to enlarge the cubic volume of the structure.

Mr. Biaggi asked staff how this relates to past determinations of the board regarding cubic volume. Ms. Wilcox responded that the board approved a project at the Hyatt in which decks were added to the hotel units and the board found that the decks did not enlarge the cubic volume of the structure. Mr. Lawrence added that in 2005 the board approved an enclosed breezeway that connected the Crystal Bay Club with an adjoining building. The project was approved by the board because it was not required structurally for the gaming structure and it was needed for public health and safety. The board also put restrictions on the project to ensure that gaming or other uses would not occur in the breezeway. For example, advertising, gaming, and retail were all prohibited.

Mr. Galloway asked whether the existing tower had balconies. Mr. Lawrence responded that there are some balconies existing off the hotel tower, but was not sure exactly how many. Mr. Grove pointed out that these existing balconies were not considered part of the cubic volume of the structure when the base data was certified by the NTRPA board.

Mr. Galloway closed the public hearing and asked if there was a motion.

Coe Swobe made a motion to accept the staff recommendation and approved the project.

Ms. Aldean seconded the motion with the condition that the applicant submits documentation regarding ownership of the hotel condominiums and how that would affect future applications.

Mr. Swobe stated that it was his intention to approve the project without conditions.

Ms. Aldean responded that she understood, withdrew her second and seconded Mr. Swobe's original motion with no condition attached. However, she felt that it was still important to clarify the ownership question.

Chair Galloway added that it was reasonable to construe that new owners of the hotel condominium units are still guests of the hotel, and the units still fit the definition of private space, and that overall the project results in less impacts.

**The project passed by the affirmative vote of all members present (6-0).**

#### **4. HARRAH'S CASINO – REQUEST FOR CONVERSION OF APPROXIMATELY 1,700 SQUARE FEET OF PUBLIC AREA TO GAMING SPACE**

Jim Lawrence gave a summary of the staff report for the project (attached). Mr. Lawrence stated that Harrah's Casino was requesting the conversion of 1,730 square feet of bar/restaurant area to high end gaming. Mr. Lawrence explained that the conversion was entirely within the interior and did not affect the cubic volume of the structure. Mr. Lawrence stated that under NTRPA ordinances, Harrah's was allowed up to 140,770 square feet of gaming area and that if approved Harrah's would have 110,876 square feet of gaming area.

Chair Galloway opened the hearing on the project for public testimony. There was no public testimony and Chair Galloway closed the hearing and asked for a motion.

**Coe Swobe made a motion to accept the staff recommendation to approve the project and forward the informational report to TRPA. The motion was seconded by Allen Biaggi and passed by the affirmative vote of all members present (6-0).**

#### **6. BOARD MEMBER COMMENTS**

Chair Galloway showed a photo of a "Welcome to Nevada" sign located at North Stateline that also showed overhead utility lines along the roadway. Mr. Galloway stated that progress has been made for a project that would construct roadway improvements and underground the utility lines shown in the picture.

Ms. Aldean asked about the status of the Crystal Bay Club and whether they had constructed the projects that were before them previously. Ms. Wilcox responded that, as far as staff has heard, the Crystal Bay Club had not followed up on any of those projects.

#### **7. PUBLIC COMMENTS**

There were no public comments.

#### **8. ADJOURN**

The meeting was adjourned at 1:00 p.m.

Note: These minutes should be considered draft minutes pending their approval at a future meeting of the Nevada Tahoe Regional Planning Agency governing board. Corrections and additions could be made prior to approval.

**NOTE: The tape recorder malfunctioned during this meeting and, as a result, there is not an audio recording of the meeting.**